THE HONOUABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.1489 of 1995

Between:

Budharaju Narasimha Raju. **.. PETITIONER**

AND

A.P.State Electricity Board and others.

.. RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER:

Questioning the action of the respondents in initiating disciplinary proceedings against the petitioner, for furnishing a bogus certificate as proof of his educational qualifications at the time of his initial appointment, 24 years after of his joining service, the present writ petition is filed.

Facts in brief are that the petitioner was issued charge-memo dated 18-02-1993, wherein it was alleged that the true copy of the transfer certificate produced by the petitioner, purported to have been issued by the Head Master of Zilla Parishad

High School indicating that he had passed 8th class, was reported not to be genuine by the District Educational officer, Vizianagaram, after due enquiry. Disciplinary action was sought to be taken against the petitioner pursuant thereto.

The petitioner was appointed in the service of the Board as a helper with effect from 04-04-1976. He was promoted as Assistant Wireman in the year 1979. He was further promoted as Wireman in the year 1980 as a Lineman in the year 1981. According to the petitioner, he was the senior most amongst the Lineman category and was entitled to be promoted immediately as Line Inspector. It is stated that the educational qualifications prescribed for appointment to the post of Helper was only read and write i.e., V class, that he has studied III form (equivalent to 8th class) in the Z.P.School, S.Kota, that at the time of his original appointment, he had submitted the original transfer certificate issued by the said school showing that he had studied up to III form. This certificate was incorporated in the service register of the petitioner. Petitioner would contend that for promotion to the next higher category of Line Inspector, it is necessary that a candidate should possess qualification of IX class pass, that he had appeared for the IX class examination conducted in April 1990 by the District Common Examination Board, Visakapatnam, as per G.O.Ms.No.1038, dated 11-12-1979 and that he possessed a certificate of having passed IX class examination. With regards the disciplinary action sought to be taken by the respondents, alleging that the original transfer certificate, wherein the petitioner was purported to have passed VIII class, was found not genuine, petitioner would submit that pursuant to the charge-memo he had contacted the school authorities and that he was issued a certificate dated 19-02-1994 informing that the academic record for the year 1964-65 was not available at all and it was not known as to how the District Educational officer had informed the 3rd respondent, vide letter dated 26-08-1994, that the school admission register was verified and the transfer certificate issued to the petitioner was not genuine. The petitioner is said to have

submitted an explanation to the Enquiry Officer on 28-01-1994 stating that the transfer certificate produced by him at the time of his initial appointment was genuine and that there was no justification to doubt the genuineness of the said certificate more than 2 decades after he had joined service. Petitioner would contend that since he was aged 44 years, (at the time of filing of this writ petition), asking him to seek alternative employment would cause irreparable injury.

The law of limitation has no application to fraudulent transactions and limitation would run only from the date fraud is detected. If, as alleged, the original transfer certificate submitted by the petitioner, is not genuine, then any benefit which he would have derived, based on such a fraudulent certificate, must necessarily be taken away. The question as to whether the transfer certificate originally submitted by the petitioner stating that he had passed III form (VIII class) is genuine or not is a matter for enquiry and it is only if it is established in the enquiry that the transfer certificate produced by the petitioner, at the time of his initial appointment is not genuine, can the petitioner be said to have played fraud on the respondents.

Sri V.Venkataramana, learned counsel for the petitioner, would, submit that the petitioner did not derive any benefit from the said transfer certificate as at the time of his initial appointment as helper, all that a candidate was required to possess was the ability to read and write. The question as to whether the petitioner derived any benefit based on the alleged fraudulent certificate is also a matter which has to be determined in the enquiry. If on the basis of the said certificate, the petitioner has not derived any benefit, it would certainly be a factor which would weigh with the respondents while determining as to the nature of punishment to be imposed on the petitioner.

Sri V.Venkataramana, learned counsel for the petitioner, would also submit that in any event, the petitioner had subsequently passed IX class examination in

April 1990. Sri Sameneni Kishore, learned Standing Counsel for the respondent, would vehemently contend that the genuineness of this certificate is also not free from doubt. These are all matter which are required to be examined in the enquiry and it is not for this court, in proceedings under Article 226 of the Constitution of India, to determine as to the genuineness or otherwise of the District Common Examination Board Certificate. The petitioner, on his own admission, has been periodically promoted from the post of Helper to that of a Lineman. What are the qualifications prescribed for appointment to the posts of helper, Assistant Wireman, Wireman and Lineman in the years in which the petitioner was promoted to these posts and as to whether the petitioner possessed the requisite qualifications at that stage is also a matter which is required to be enquired into.

Sri V. Venkataramana, learned counsel for the petitioner, would urge that the petitioner was aged 44 years at the time of filing of the writ petition in the year 1995 and must be around 55 years as on date with just three years of service left before he reaches the age of superannuation. Whether this should be a factor, while deciding on the nature of punishment to be imposed, if the petitioner is found guilty of the charges, are all matters for the respondent corporation, pursuant to the departmental enquiry, to determine. Since disciplinary proceedings have not been proceeded with, consequent upon the interim orders of this Court, the petitioner is permitted to submit his explanation to the charge memo, in addition to the explanation already filed, within two weeks from the date of receipt of a copy of this order. The respondents are directed to complete the disciplinary enquiry within four months thereafter.

The writ petition is accordingly disposed of. No order as to costs.

03-03-2006

Prv